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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,968	09/30/2003	Hideyasu Yamabe	MM0725US (#90326)	5877

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EXAMINER

LERNER, AVRAHAM H

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,968

Applicant(s)

YAMABE, HIDEYASU

Examiner

Avraham Lerner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 3-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1103.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 3-6 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, or amend the claims to place them in proper dependent form, or rewrite the claims in independent form. The claims remove limitations from the structure recited in claim 1 by virtue of the "instead of" language. These claims are withdrawn from consideration for this Office action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuchta (U.S. Patent No. 1,610,016).

Kuchta discloses a folding bicycle comprising all elements as claimed, including a head pipe pivotally supported with respect to a main frame of a rod shape at a front end of the main frame so as to be rotatable in a plane including the main frame; a front wheel fork and a handle shaft each inserted into and supported by the head pipe; a rear wheel (15) rotatably supported on a rear end of the main frame; a saddle post (23) having a saddle on top thereof and pivotally supported on a rear side of a pivotal-support portion of the head pipe; a stay (19) detachably

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fixed (via wing nuts) at a top end thereof to the saddle post and pivotally supported on a front side of the rear wheel of the main frame; a crank gear (see Fig. 1) rotatably supported between a pivotal-support portion of the saddle post and a pivotal-support portion of the stay; and a loop drive member looped over the crank gear and a small gear (unnumbered) provided on the rear wheel, wherein the stay, the saddle post, and the handle shaft can be folded to be overlaid one another along the main frame, and wherein each of the front wheel and rear wheel has a cantilever structure and can be readily attached and detached to and from a free end side of a support shaft.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchta in view of Remiller (WO Patent No. 02/49908).

Kuchta discloses a folding bicycle comprising all elements as claimed, as recited above in detail, except for the stay being attached and detached to the saddle post via a suspension mechanism.

Remiller discloses that it is known in the art to provide a rear seat stay that is connectable via a suspension mechanism.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the seat stay of Kuchta with the suspension of Remiller in order to improve the ride quality of the bicycle as a whole. Such a modification would have absorbed road shock otherwise transmitted to the seat and rider of the vehicle, making the ride for comfortable and therefore would have been obvious to one of ordinary skill.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchta in view of Irlbacher (U.S. Patent No. 6,695,334).

Kuchta discloses a folding bicycle comprising all elements as claimed, as recited above in detail, except for front and rear brakes, each having a brake shoe for contacting the wheel from the outside as claimed.

Irlbacher discloses that it is known in the art to provide a folding bicycle with front and rear brakes having all elements as claimed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bicycle of Kuchta with the brake assembly of Irlbacher in order to ensure the safe operation of the bicycle. Such a modification would have provided a known and reliable way to brake the bicycle, thereby improving the safety of the folding bicycle for an operator.

Allowable Subject Matter

7. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Waki (JP Patent No. 3—54088), Jensen (U.S. Patent No. 3,623,749), Lassiere (U.S. Patent No. 3,979,136), Chiu (U.S. Patent No. 4,824,130), and Miksik (U.S. Patent No. 6,702,312 B1) disclose frame assemblies for folding bicycles.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (703) 308-0423. The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AVRAHAM LERNER
PRIMARY EXAMINER

A. Lerner 5/17/04

May 17, 2004